International Seabed Authority ISBA/21/LTC/WP.1

Legal and Technical Commission

Distr.: Limited
14 January 2015

Original: English

Twenty-first session
Kingston, Jamaica
13-24 July 2015

Procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

I. Form and content of application for extension

1. The holder of a contract for exploration (hereinafter referred to as "the Contractor") may submit an application for extension of such contract in accordance with the procedures set out below.

2. Each application for extension of a contract for exploration shall be in writing, addressed to the Secretary-General, and shall contain the information set out in annex I. Each such application shall be submitted no later than six months before the expiration of the contract in respect of which the application is made.

3. The fee for processing an application for extension of a contract for exploration shall be a fixed amount of $110,000 or its equivalent in a freely convertible currency, to be paid in full at the time of the submission of an application.[1]

4. If the administrative costs incurred by the Authority in processing an application are less than the fixed amount indicated in paragraph 3 above, the Authority shall refund the difference to the Contractor. If the administrative costs incurred by the Authority in processing an application are more than the fixed

[1] The processing fee of $110,000 is based on a provisional estimate provided by the Office of Administration and Management. Any decision by the Council to impose a processing fee based on the principle of cost recovery has financial and budgetary implications insofar as it relates to the financial management and internal financial administration of the Authority. Pursuant to the 1994 Agreement, any such decision must be based on the recommendations of the Finance Committee. Accordingly, the Legal and Technical Commission may wish to request the Secretary-General to refer this matter to the Finance Committee, in accordance with its rules of procedure.

15-00484 (E) 220115

Please recycle

amount indicated in paragraph 3 above, the Contractor shall pay the difference to the Authority, provided that any additional amount to be paid by the Contractor shall not exceed 10 per cent of the fixed fee referred to in paragraph 3.

5. Taking into account any criteria established for this purpose by the Finance Committee, the Secretary-General shall determine the amount of such differences as indicated in paragraph 4 above and notify the Contractor of the amount. The notification shall include a statement of the expenditure incurred by the Authority. The amount due shall be paid by the Contractor or reimbursed by the Authority within three months of the final decision by the Council in respect of the application.

II. Processing of an application for extension of a contract for exploration

6. The Secretary-General shall:

(a) Acknowledge in writing the receipt of every application for extension of a contract for exploration, specifying the date of receipt;

(b) Place the application, together with the attachments and annexes thereto, in safe custody and ensure the confidentiality of all confidential data and information contained in the application;

(c) Notify the members of the Authority of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application;

(d) Notify the members of the Legal and Technical Commission and place consideration of the application as an item on the agenda for the next meeting of the Commission.

III. Consideration by the Legal and Technical Commission

7. The Commission shall consider applications for extensions of contracts for exploration in the order in which they are received.

8. The Commission shall consider applications for extension of contracts for exploration expeditiously and shall submit its report and recommendations to the Council at the first possible opportunity, taking into account the schedule of meetings of the Authority.

9. In discharging its duties, the Commission shall apply these procedures and criteria and the rules, regulations and procedures of the Authority in a uniform and non-discriminatory manner.

10. The Commission shall consider and review the data and information provided by the Contractor in connection with the application for extension of the contract for exploration. The Commission may request the Contractor to submit such additional data and information as may be necessary for the purposes of the review.

11. If the Commission finds that an application for extension of a contract for exploration does not comply with these procedures, it shall notify the Contractor in

writing, through the Secretary-General, indicating the reasons. The Contractor may, within 45 days of such notification, amend its application. If the Commission, after further consideration, is of the view that it should not recommend approval of the application for extension of the contract for exploration, it shall so inform the Contractor and provide the Contractor with a further opportunity to make representations within 30 days. The Commission shall consider any such representations made by the Contractor in preparing its report and recommendation to the Council.

12. The Commission shall recommend approval of the application for extension of the contract for exploration if the Contractor has made efforts in good faith to comply with the requirements of the contract for exploration but, for reasons beyond the Contractor's control, has been unable to complete the necessary preparatory work for proceeding to the exploitation stage, or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

IV. Consideration by the Council

13. The Council shall consider the reports and recommendations of the Commission relating to applications for extension of approved plans of work for exploration in accordance with paragraphs 11 and 12 of section 3 of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

14. Upon approval by the Council, a contract shall be extended by the execution by the Secretary-General and the authorized representative of the Contractor of an Agreement in the form set out in annex II. The terms and conditions applicable to the contract during the extension period shall be the terms and conditions in force as at the date of the extension, pursuant to the relevant regulations.

V. Transitional provision

15. In the event that an application for extension of a contract has been duly submitted in accordance with these procedures, but the contract would otherwise expire on a date after the next scheduled meeting of the Legal and Technical Commission but prior to the next scheduled meeting of the Council, the contract and all rights and obligations under the contract shall be deemed to be extended until such time as the Council is able to meet and approve the report and recommendations issued by the Commission in respect of that contract.

Annex I

An application for extension of a contract for exploration shall consist of the following:

1. A statement by the Contractor of the grounds upon which an extension of the contract for exploration is sought. Such statement shall state the duration of the extension sought (up to five years) and shall include either:

(a) Particulars of the reasons beyond the Contractor's control that have rendered it unable to complete the necessary preparatory work for proceeding to the exploitation stage; or

(b) An explanation of the reasons why the prevailing economic circumstances do not justify proceeding to the exploitation stage, including an explanation as to whether the economic circumstances in question refer to global market conditions in general or to a feasibility assessment regarding the Contractor's own project.

2. A detailed summary of the work carried out by the Contractor during the entire period of the contract and the results obtained measured against the approved plan of work for exploration. Such summary shall include:

(a) A complete list of all reports submitted to the Authority pursuant to the contract for exploration;

(b) A complete inventory of all data and information submitted to the Authority pursuant to the contract for exploration;

(c) All data that has been requested by the Authority following the review of annual reports pursuant to the contract for exploration or that otherwise should have been submitted to the Authority pursuant to the contract, and that has not yet been supplied or has not been supplied in the format requested by or acceptable to the Authority;

(d) A breakdown of expenditure pursuant to the contract for exploration, in accordance with the recommendations for the guidance of contractors issued by the Legal and Technical Commission pursuant to regulation 38 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, and identifying any deviation from the anticipated yearly expenditures during the period of the contract;

(e) A summary of training provided pursuant to the contract for exploration.

3. A description and a schedule of the proposed exploration programme during the extension period, including a detailed programme of activities, showing any proposed modifications or additions to the approved plan of work for exploration under the contract, and a statement that during the extension period the Contractor will complete the necessary preparatory work for proceeding to the exploitation stage.

4. Details of any proposed relinquishment of any part of the exploration area during the extension period.

5. A schedule of anticipated yearly expenditures in respect of the programme of activities for the extension period.

6. A proposed training programme for the extension period in accordance with the recommendations for the guidance of contractors issued pursuant to regulation 38 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area.

7. A written declaration by the sponsoring State or States, if applicable, stating that the sponsorship will continue during the extension period and that the sponsoring State(s) continues to assume responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.

8. All data and information submitted in connection with the application for extension of the contract for exploration shall be submitted in hard copy and in a digital format specified by the Authority.

Annex II

Agreement between the International Seabed Authority and [Contractor] concerning the extension of the Contract for Exploration for Polymetallic Nodules between the International Seabed Authority and [Contractor], dated [date]

The International Seabed Authority, represented by its Secretary-General (hereinafter referred to as "the Authority"), and [Contractor], represented by [...] (hereinafter referred to as "the Contractor"), agree that the Contract for Exploration for Polymetallic Nodules between the Authority and the Contractor signed on [date] at [place] for a period of [ ] years from [date of expiry of original contract], together with related annexes, is extended for a period of [...] years to [date], subject to the following amendments.

1. Schedule 2 of the Contract shall be replaced by the programme of activities attached to this Agreement as annex I.

2. Schedule 3 of the Contract shall be replaced by the training programme attached to this Agreement as annex II.

3. Schedule 4 of the Contract shall be replaced by the standard clauses attached to this Agreement as annex III,[a] which shall be incorporated into the Contract and shall have effect as if set out therein at length.

Subject to the above amendments, the Contract shall continue in all other respects with full force and effect. This amendment will enter into force on [date].

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective parties, have signed this Agreement at [place] this [date].

---

[a] Annex IV to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, adopted by the Council on 22 July 2013 (ISBA/19/C/17, annex), as amended by ISBA/19/A/12.